



## Georgia

### Country Reports on Human Rights Practices - [2004](#)

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Georgia is a republic with a Constitution that provides for a strong executive branch that reports to the president. The president appoints ministers with the consent of Parliament. Parliamentary elections held in November 2003 were marred by serious irregularities, resulting in mass street protests. In November 23, 2003, President Shevardnadze resigned as president, culminating what became known around the world as the Rose Revolution. New presidential elections were held on January 4, and opposition leader Mikheil Saakashvili won by over 90 percent. New parliamentary elections were held in March, and Saakashvili's National Movement won the majority of seats. A civil war and separatist wars in the early 1990s ended central government authority in Abkhazia and South Ossetia and weakened central authority in the autonomous region of Ajara and elsewhere in the country. The Constitution provides for an independent judiciary; however, the judiciary was subject to executive pressure and corruption.

The Ministry of Internal Affairs (MIA) and the Ministry of State Security (MSS), which were combined in December to become the new Ministry of Police and Public Order, have primary responsibility for law enforcement along with the Prosecutor General's Office. In times of internal disorder, the Government may call on the Ministry of Police and Public Order or the military. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed a number of serious human rights abuses.

The country, with a population of approximately 4.4 million, had a market-based economy with a large agricultural sector. The gross domestic product growth during the year was 8.4 percent. Wages did not keep pace with inflation. Although corruption impacted the economy, the Government took steps to address it during the year. Pensions and state salaries were paid on time and arrears began to be retired for the first time in several years, as a result of economic reform and anticorruption programs.

The Government's human rights record remained poor; although there were improvements in some areas, serious problems remained. Nongovernmental organizations (NGOs) blamed two deaths in custody on physical abuse. NGOs reported that police brutality continued, and in certain areas increased. Law enforcement officers continued to torture, beat, and otherwise abuse detainees. Corruption in law enforcement agencies decreased, but remained a problem. Arbitrary arrest and detention remained problems, as did lack of accountability. The judiciary system continued to lack true independence, and the executive branch and prosecutors' offices continued to exert undue influence on judges. There were lengthy delays in trials, and prolonged pretrial detention remained a problem.

Law enforcement agencies and other government bodies occasionally interfered with citizens' right to privacy. The press generally was free; however, journalists practiced increased self-censorship. In the beginning of the year, security forces violently dispersed several peaceful rallies and placed participants in pretrial detention. While violence against religious minorities decreased, Government officials continued to tolerate discrimination and harassment against some religious minorities. Violence against women was a problem. Trafficking for the purpose of forced labor and sexual exploitation was a problem.

International observers determined that the January presidential elections and the March parliamentary elections represented significant progress over previous elections and brought the country closer to meeting international standards, although several irregularities were noted. In contrast to previous years, there were fewer reports of harassment or violence against religious minorities. Police bribery of motorists also decreased significantly due to an overhaul of the highway police and elimination of the traditional traffic police.

Internal conflicts in Abkhazia and South Ossetia remained unresolved. Ceasefires were in effect in both areas, although sporadic incidents of violence occurred in Ossetia. These conflicts and the problems associated with approximately 230,000 IDPs from Abkhazia, 12,200 from South Ossetia, and 2,600 refugees from Chechnya posed a continued threat to national stability.

### RESPECT FOR HUMAN RIGHTS

## Section 1

## Respect for the Integrity of the Person

## a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings; however, law enforcement officers' abuses officially contributed to one death. NGOs blamed another death in custody, a suicide, on physical and psychological pressure.

On May 23, Khvicha Kvirikashvili died shortly after being taken home by police officers following questioning in the police station of Gldani-Nadzaladevi district in Tbilisi concerning a May 22 burglary. The Prosecutor General opened an investigation into Kvirikashvili's death and found evidence that he was beaten while in the police station. In June, police officer Roland Minadze was sentenced to 3-month pretrial detention in connection with Kvirikashvili's death. A criminal case began on September 21. The trial was ongoing at year's end.

Killings were committed by elements on both sides of the separatist conflict in South Ossetia. In August, fighting flared up in South Ossetia, and several civilians and soldiers died on both sides of the conflict. No deaths were prosecuted or punished. Partisan violence in Abkhazia significantly decreased during the year. The Government took concrete steps to arrest militia partisan groups and curtail their activities; most members of the partisan organization The Forest Brothers have been arrested.

Both government and Abkhaz forces laid tens of thousands of landmines during the 1992-93 fighting. There was a reduction in landmine casualties to two during the year due to migration out of the area and to the activities of landmine clearing organizations such as the Halo Trust.

## b. Disappearance

There were no reports of politically motivated disappearances.

Partisan groups active in Abkhazia engaged in criminal activity and frequently took hostages to exchange for captured compatriots. Partisans in South Ossetia also were active during the summer in kidnapping, both to exchange for captured compatriots and for ransom. Kidnapping for ransom decreased significantly elsewhere in the country. The MIA reported 18 cases of kidnapping in the first 10 months of the year and stated that investigations had resulted in charges in 4 of these cases.

At year's end, the whereabouts of Chechen refugee Adam Talalov, who disappeared in 2003, remained unknown.

The investigation into the kidnapping and release of three U.N. military observers in 2003 remained ongoing at year's end.

Government and Abkhaz commissions on missing persons reported that more than 1,000 Georgians and several hundred Abkhaz remained missing as a result of the 1992-94 war in Abkhazia (see Section 1.g.). The International Committee of the Red Cross (ICRC) assisted joint official efforts to determine the location and repatriate the remains of the dead. No repatriations had occurred by year's end.

## c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, law enforcement officers continued to torture, beat, and otherwise abuse prisoners and detainees, usually to extract money or confessions, and NGOs alleged the problem increased since the most recent elections. Serious abuses and police misconduct, such as the fabrication or planting of evidence, also remained problems. During the year, there were several cases of police officers brought to trial, dismissed, or demoted for abuses; however, impunity remained a problem, particularly in outlying regions (see Section 1.d.).

Human rights advocates reported that while allegations of torture of convicted criminals decreased, allegations of torture in pretrial detention facilities and in police departments increased during the year. Reported torture often included beating, electric shocks, and cigarette burns. During the year, police increasingly brought suspects to police stations, beat or tortured them, and released them without officially registering the suspect's presence at the station.

The investigation into the allegations that police subjected Irakli Tushishvili to electric shock in MIA custody remained ongoing. Tushishvili remained in pretrial custody at year's end.

The most serious incidents of abuse occurred during pretrial detention when police interrogated suspects. According to human rights observers, those who suffered such abuse were held routinely for lengthy periods in pretrial detention to give their injuries time to heal. Police often claimed that injuries were sustained during or before arrest. Criminal agents within the prison population also allegedly committed abuses in pretrial detention facilities. Unlike the previous year, there were no reports of abused children in the Isolator detention facility; the facility closed during the year.

On January 10, police officers detained former Deputy Defense Minister Gia Vashakidze and his associates Eldar Gogberashvili

and Benjamin Sanablidze under suspicion of involvement in the December 2003 kidnapping of banker Tamaz Maglakelidze. Police officers took them to a local cemetery where they beat Gogberashvili and Sanablidze in front of Vashakidze. On January 11, police brought the three men to the Tbilisi City police station where all were beaten and Sanablidze received electric shocks. After a January 12 bail hearing, police officers returned them to the police office, where they continued to beat them and forced them to sign a confession. Police did not permit a medical examination requested by Sanablidze's lawyer until 2 weeks later. There were signs that officers had broken Sanablidze's nose and several of his ribs, administered electric shocks to his head and hands, and burnt cigarettes into his legs. In May, Vashakidze was released from detention on bail, after diplomatic intervention on his behalf.

On April 24, Sulokhan Molashvili appeared at the General Prosecutor's office, where he was taken into 3-month pretrial detention for abuse of power and misappropriation of money. Molashvili's lawyers reported that, in detention, officers beat him, administered electric shocks, and burnt cigarettes into his back. A medical examination was not administered. According to the NGO Human Rights Information and Documentation Center, the Prosecutor General did not begin an immediate investigation against Molashvili, although in July, the Prosecutor requested an extension of pretrial detention for investigation purposes. In July, the General Prosecutor opened an investigation into Molashvili's injuries that was ongoing at year's end.

Criminal proceedings against two police officers for extortion and physical abuse of 15-year-old D. Asaturov and his family remained pending at year's end.

There were no developments in the reported 2002 abuse cases.

During the year, the NGO Liberty Institute documented over 1,000 cases of torture in pretrial detention, although it noted a significant decrease in torture in prisons since early November.

During the year, the official number of detainees delivered to pretrial detention facilities with injuries sustained during temporary detention was 136, an increase of 14 percent. Few of these incidents resulted in prosecutions.

Government officials acknowledged that, in the past, MIA personnel routinely beat and abused prisoners and detainees, and the Government took some steps to address these problems. Government officials cited a lack of proper training, poor supervision of investigators and guards, and a lack of equipment as contributing to the continuation of these practices in law enforcement facilities.

The Ministry of Justice (MOJ) was responsible for overall administration of the prison system; however, the law permits MIA personnel to staff the facilities. During the year, the MIA and MSS transferred all remaining prisons under their jurisdiction to the MOJ. Isolator Five, a pretrial detention facility largely used for political prisoners and known for abusive practices, no longer held prisoners and was shut down during the year. The MIA only maintained overnight detention facilities at police stations. The law permits the MIA to conduct investigations among inmates without judicial approval to gather evidence for trials.

The MOJ maintained a monitoring board of civil society and NGO representatives, which had the responsibility of reporting on human rights abuses in detention facilities. Board members had the right to pay unannounced visits to any detention facility. At the beginning of the year, the board was abolished and not reestablished until September. Many NGOs complained that several previous members of the board who were especially critical of the new Government were not allowed on the new board. The board members recommenced monitoring in November.

The U.N., the International Committee of the Red Cross (ICRC), and many NGOs, including Human Rights Watch (HRW), continued to report inhumane and life threatening prison conditions. Abuse and extortion of prisoners and detainees by prison staff continued. Prison facilities remained unsanitary, understaffed, and were in desperate need of repair. Continued overcrowding was a particularly acute problem. Most prison facilities lacked basic utilities and sanitary facilities. Regional penitentiaries and pretrial detention facilities were without electricity for months. Payment of guards and prison staff became more regular, which allegedly decreased corruption.

A 2002 U.N. Human Rights Commission review cited systemic problems with the criminal justice and prison systems and continued widespread use of torture and arbitrary detention by police. The Government had not responded to the Commission's recommendations by year's end.

Attempted suicides and self-mutilation occurred in prisons as protests against declining prison conditions and human rights violations. There were also sporadic hunger strikes by prisoners to protest poor conditions, visitor limitations, and the perceived arbitrary parole policy of the Government.

In 2003, prisoners Givi Rukhaia and Zaal Chikhladze protested the alleged false charges through 1 day of self-mutilation. Rukhaia mutilated himself with nails and Chikhladze sewed his mouth shut. An independent investigation by the Ombudsman supported the prisoner's contention that police had extorted money and gold from Rukhaia. An investigation into the case was ongoing at year's end.

The prison mortality rate reportedly improved; however, human rights NGOs claimed that authorities kept official rates artificially

low by releasing terminally ill prisoners or by sending dying prisoners to the hospital. Observers claimed deaths of prisoners without families usually went unreported. During the year, there were 28 registered deaths in prison, 1 attributed to suicide and 1 attributed to a beating by a police officer (See Section 1.a.); the remaining deaths were attributed to health complications. According to the ICRC, tuberculosis was widespread in the prison system; in cooperation with the MOJ, the ICRC treated nearly 2,600 infected prisoners since 1998.

NGOs reported violence among prisoners decreased during the year.

Men and women were held separately. Juveniles were held separately in a specially constructed facility; however, juveniles were infrequently separated from other inmates in MIA temporary detention facilities. Pretrial detainees were often kept with convicted prisoners due to overcrowding.

The ICRC had full access to detention facilities, including those in Abkhazia, and was allowed private meetings and regular visits with detainees. The Organization for Security and Cooperation in Europe reported bureaucratic delays but no serious problems in obtaining access to prisoners or detainees; however, local human rights groups reported sporadic difficulty in visiting detainees, particularly in cases with political overtones. In March, the human rights unit of the Prosecutor General's Office was abolished and not reestablished until October. Since November, the unit enjoyed free access to prisons to monitor conditions.

#### d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention; however, the Government frequently disregarded these provisions.

The MIA and Prosecutor General's Office have primary responsibility for law enforcement. The MIA controls the police, which are divided into functional departments. A separate, independently funded police protection department under the MIA provides security and protection to private businesses. Public confidence in the police increased during the year due to a reduction in corruption. During the year, police received their salaries more regularly. Impunity, however, remained a problem. In July, the MIA took steps to reduce police corruption by firing 13,000 officers, disbanding the corrupt traffic police force, and replacing them with a new patrol police unit consisting of newly hired officers with higher salaries. Only individuals under age 37 were allowed to apply for this new Patrol. Since then, the widespread solicitation of bribes from motorists decreased substantially. In November, the MIA transferred its armed internal troops to the Ministry of Defense. The MIA announced its intentions to reorganize the remaining 3,000 lightly armed internal troops into a Gendarmerie, responsible for keeping public order. In December, the Government announced the merger of the Ministries of Interior and State Security into a new Ministry of Police and Public Order. All redundant departments were combined and the Department of Foreign Intelligence became a stand-alone agency.

While the new Government prioritized rooting out corruption, its efforts sometimes infringed on the rule of law. For example, between January and March, the Government arrested a number of high profile, wealthy figures close to former President Shevardnadze, charged them with abuse of office or tax arrears, sentenced them to pretrial detention, and fined them a predetermined sum, which was reportedly deposited in the State treasury. Detainees were released without charge if they paid. If the individual refused to pay, he or she remained in isolated pretrial detention and experienced intimidation. The Government, in effect, used pretrial detention as a bargaining tactic to induce payment.

Government officials, including President Saakashvili, also made public comments that gave the impression they supported police brutality and increased the atmosphere of impunity among police officers. Saakashvili and other government officials later held several press conferences to publicly condemn police brutality.

On February 20, law enforcement agents arrested Gia Jokhtaberidze, majority shareholder in a large telecommunications company and son-in-law of former President Shevardnadze. Jokhtaberidze was forcibly removed from a departing airplane in an arrest widely broadcast throughout the country, and immediately placed in pretrial detention. Commenting on the arrest, President Saakashvili made public statements that violated due process. In March, in contradiction to the law, Jokhtaberidze was transferred to Isolator Number Five. Jokhtaberidze's lawyers claimed he was repeatedly threatened. The General Prosecutor offered to drop all charges if Jokhtaberidze paid \$15 million (30 million GEL). On April 26, after payment, Jokhtaberidze was released from detention with all charges dropped. Government officials, including the President, and media claimed that the money was a fine; Jokhtaberidze and his company denied the payment was an admission of wrongdoing.

An ongoing culture of impunity remained a problem. Despite this, some police officers were arrested or administratively disciplined in high-profile cases of physical abuse or deaths in custody. The MOJ maintained a system to provide for medical examinations of prisoners transferred from police stations to pretrial detention facilities in order to document injuries that may have occurred in police custody and to establish baseline medical condition information for each prisoner that could be used in cases of alleged prison abuse. Injuries consistent with abuse were documented and reported to the MOJ authorities, who in turn reported them to the MIA for investigation. The system functioned effectively.

In general, officers were held accountable for abuses only in extreme cases, and the Criminal Procedures Code limited a detainee's ability to substantiate claims of such abuses (see Section 1.e.). During the year, 179 criminal cases against MIA employees were opened by the Prosecutor General's Office. All of these cases were pending at year's end. Many observers claimed that prosecutors were frequently reluctant to open a criminal case against police or they closed a case for lack of

evidence. Human rights NGOs also believed that many instances of abuse went unreported by victims due to fear of reprisals or lack of confidence in the system.

A defendant may file a complaint of abuse only with the Prosecutor General's Office, whose decision cannot be appealed. NGOs claimed that this regulation hindered their ability to substantiate police misconduct because of the close ties between the Prosecutor General's Office and the police.

The Criminal Procedure Code provides for the right of a witness to be accompanied by a lawyer when being questioned by the police. Police can hold a witness for 48 hours without bringing charges. Police frequently charged witnesses as suspects at the end of this period. Human rights observers continued to allege that police often called a detainee's lawyer as a witness, thereby denying him access to his client.

Parliament's Committee on Human Rights and Ethnic Relations investigated claims of arrest and detention abuse. The Committee's chairperson reported a significant decrease in the number of claims filed during the second half of the year; however, NGOs did not report a decrease in incidents of torture until November.

Judges issue warrants and detention orders and, by law, suspects must be charged within 3 days. Judges have six possible preventive measures to ensure suspects will appear at trial, including bail, pretrial detention, and house arrest. In practice, 3-month pretrial detention was always imposed, which may be extended by 3-month intervals up to 9 months. In practice, suspects were detained in pretrial detention much longer than legally permitted. The bail system was rarely used due to fear of being subject to bribery accusations.

NGOs noted that, if a judge rules that an investigation must be renewed, the 9-month pretrial detention limits are also extended. In practice, as judges lacked real independence from prosecutors, prosecutors could keep suspects in jail as long as they liked. The Criminal Code states suspects cannot be held for a combined period of more than 24 months once a trial has commenced, which can be extended by the judge to 30 months. Judges sometimes neglected these stipulations.

Police frequently detained persons without warrants and often planted drugs or weapons in order to arrest individuals. Police frequently did not allow witnesses during searches in which they "found" drugs or weapons, and then forced individuals to sign witness statements. According to one NGO, approximately 80 percent of all detainees in pretrial detention were being held on charges of drug or illegal weapon possession.

On January 9, police raided the home of Zaza Ambroladze, entering without a warrant and not allowing witnesses to the search. The police claimed to find an illegal automatic weapon and placed Ambroladze under 3 months pretrial detention. This event sparked large street protests that were violently dispersed (see Section 2.b.). Several months later, the court sentenced Ambroladze to 2 years' imprisonment for illegal possession of arms. Ambroladze's lawyer's appealed the ruling to the regional appellate court.

On August 2, police raided the office of independent newspaper Khalkhis Gazeti. No search warrant was presented and no one was allowed to witness the search. Police claimed to find drugs and detained the newspaper's editor Rezo Okruashvili, a critic of the Government. On August 4, Okruashvili was sentenced to 3 months pretrial detention. After signing a confession, Okruashvili was released pending trial. Okruashvili claimed he was beaten and forced to sign the confession and appealed the charge.

Detainees had difficulty obtaining objective medical examinations in a timely manner, which made it difficult to establish the cause of injuries. Only a state employed forensic medical examiner, which in most cases was an employee of the Ministry of Health's Judicial Medical Expert Center, could testify about injuries. Human rights advocates routinely criticized the state forensic examiners as biased in favor of the Prosecutor General and stated that permission for an independent forensic medical examination was rarely granted.

Police often failed to inform detainees of their rights and denied them access to family members and lawyers. Some observers charged that police also conducted interrogations in apartments outside police stations to avoid registering detainees. While suspects officially were charged within 3 days of registration, observers claimed that police frequently delayed registering detainees for long periods in order to seek bribes or to allow time for injuries inflicted by the police to heal. Police reportedly approached suspects' families and offered to drop charges in exchange for a bribe. Correct legal procedures were observed more often when a detainee was charged and registered formally.

The Criminal Procedure Code grants witnesses the right to legal counsel; however, this right was only occasionally observed in practice. It was common police practice to label detained suspects as "witnesses" in order to deny them access to a lawyer. In January 2003, the Constitutional Court ruled that 5 changes had to be made to the criminal code, including that detainees must have the right to a lawyer during the first 12 hours of detention, and that thereafter, the detainee must have at least 2 hours daily access to a lawyer. In October, Parliament passed an amendment to the Criminal Procedural Code allowing suspects access to a lawyer immediately upon detention. The other points of the Constitutional Court's ruling have not been implemented.

The Constitution provides for a 9-month maximum period of pretrial detention, mandates court approval for detention over 72 hours, and imposes restrictions on the role of the prosecutor (see Section 1.e.). These provisions were often overlooked, and prosecutors continued to exert undue influence over criminal procedures.

The Criminal Procedure Code calls for detainees to be charged within 72 hours. MOJ figures for the year showed that, for the Tbilisi pretrial detention center, only one detainee was registered in violation of the 72-hour deadline. The most serious incidents of police abuse occurred in the investigative phase of pretrial detention, when police interrogated suspects (see Section 1.c.).

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice, judicial authorities continued to experience pressure from the executive branch and powerful outside interests. The judiciary did not exercise full independence, and judicial impartiality was limited. Many NGOs complained that judicial authorities often acted as a rubber stamp for prosecutors' decisions and that the executive branch exerted undue influence. Investigators often planted or fabricated evidence and extorted confessions in direct violation of the Constitution. Judges were reluctant to exclude evidence obtained illegally if the Prosecutor General objected. Courts continued to convict on the strength of confessions that may have been extracted under torture. Bribery decreased as salaries for judges increased.

President Saakashvili and other government officials often made public statements concerning the guilt of detained suspects in high-profile corruption cases before a trial had commenced, thus exerting undue influence on impending court cases, as judges felt pressured to uphold the President's "opinions."

The Council of Justice administered the three-tiered court system. The Council has 12 members, 4 selected from within each branch of government. To reduce incompetence and corruption, the law has established a three-part testing procedure for working and prospective judges administered by the Council. All judges, including Supreme Court judges, are required to take Council-administered exams. At the lowest level are district courts, which hear routine criminal and civil cases. At the next level are regional (city) courts of appeal, which serve as appellate courts for district courts. The regional courts also try major criminal and civil cases, review cases, and either confirm verdicts or return cases to the lower courts for retrial. The Supreme Court acts as a higher appellate court but is the court of first instance for capital crimes and appeals from the CEC. Regional managing judges continued to monitor the performance of lower courts throughout the country.

A separate Constitutional Court arbitrates disputes between branches of Government and rules on individual human rights violation claims; it generally demonstrated judicial independence. The Court interpreted its function in human rights case narrowly, agreeing to rule only in cases in which human rights were violated as a result of specific articles of law. Furthermore, the Constitutional Court was significantly weaker than the Supreme Court, and its rulings were sometimes not enforced.

The Constitution identifies the Prosecutor General's Office as part of the judicial system, and there were calls from legislators and others to move the Office into the executive branch. Court orders were rarely enforced.

According to the Constitution, detainees are presumed innocent and have the right to a public trial. A detainee has the right to demand immediate access to a lawyer and the right to refuse to make a statement in the absence of counsel. Officers must inform detainees of their rights and notify their families of their location as soon as possible. However, these rights were not fully observed in practice. Authorities frequently did not permit detainees to notify their families of their location, and local police authorities limited lawyers' access to detainees. Lengthy trial delays were common. Defense counsel is not required to be present at pretrial hearings, and defendants and their attorneys regularly complained that they were not notified of scheduled hearings. The Criminal Procedures Code does not require the police to allow a lawyer to enter a police station unless hired by a detainee. Juries were used. Defendants have the right to appeal and to access evidence.

Attorneys were assigned to defendants unable to afford legal counsel, upon the recommendation of the prosecutor's office by the Office of Legal Assistance, a part of the state-controlled Bar Association. In certain cases, defendants were pressured or coerced by prosecutors to accept a state-appointed attorney or other attorneys who did not vigorously defend their interests. However, in general individuals who could afford to pay were able to obtain the attorney of their choice in both criminal and civil cases. The prosecutor's office not only had control over state-appointed lawyers it also determined whether to grant a defendant's request to change lawyers. Several NGOs provided free legal services in Tbilisi for victims of human rights violations.

Prosecutors continued to direct investigations, supervise some judicial functions, and represent the state in trials. They also continued to exert disproportionate influence over judicial decisions. The Criminal Procedure Code prohibits the judge who signed a warrant from hearing the case; however, this rule frequently was disregarded outside of Tbilisi, since few regions had more than one judge.

International and local human rights organizations varied on estimates of how many political prisoners were in the country, reporting from 0 to 20. The Parliamentary Human Rights Committee and Ombudsman claimed that there were no official political prisoners in the country; however, many individuals, including members of the former paramilitary group "Mkhedrioni," Zviadists (followers of the deceased former president Gamsakhurdia), and several high-ranking officials from the previous government, considered themselves political prisoners. According to human rights observers, some Zviadist prisoners never took up arms and should be considered political prisoners. In 2003, the Interim President appointed former Gamsakhurdia Minister of Finance Guram Absandze as Deputy State Minister charged with reviewing all cases against Zviadists, with the aim of releasing them. Over 20 of the group were released this year.

In November 2003, the European Court of Human Rights (ECHR) in Strasbourg began reviewing the case of Tengiz Asanidze, who was pardoned by President Shevardnadze in 1999, but was still held in prison by the Ajaran government in contradiction to the central authorities. On April 8, the ECHR ruled that Asanidze should be released and fined the Georgian government approximately \$202,500 (150,000 euros) and an additional \$6,750 (5,000 euros) for legal fees. In accordance with the ruling, Asanidze was released and paid.

The Government permitted international human rights and domestic organizations to visit political prisoners, and some organizations did so during the year.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions without court approval or legal necessity; however, in practice, the Government occasionally monitored private telephone conversations without obtaining court orders. The Government stated that security police and tax authorities entered homes and workplaces without prior legal sanction. In contrast to last year, traffic police no longer stopped and searched vehicles for bribes.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Internal conflicts in Abkhazia and South Ossetia remained unresolved. Cease-fires were in effect, and Commonwealth of Independent States (CIS) and joint peacekeeping forces, respectively, were present in both areas, although sporadic incidents of violence occurred in Abkhazia, in the neighboring Georgian region of Samegrelo, and in South Ossetia. These conflicts and the problems associated with the current numbers of approximately 230,000 IDPs from Abkhazia, 12,200 from South Ossetia, and 2,600 refugees from Chechnya posed a continued threat to national stability. In 1993, Abkhaz separatists won control of Abkhazia, and most ethnic Georgians were expelled from or fled the region. A Russian peacekeeping force has also been in South Ossetia since 1992 as part of a joint peacekeeping force with Ossetians and Georgians. The Government had no effective control over Abkhazia or South Ossetia during the year. In July and August, a flare-up in the Ossetian conflict caused 17 MIA and MOD casualties and an unknown number of deaths on the Ossetian side. The conflict deescalated before year's end.

There was limited information on the human rights situation in Abkhazia and South Ossetia due to limited access to these regions. The U.N. Human Rights Committee (UNHRC) Office in Abkhazia reported continuing modest improvements in the human rights situation. However, systemic problems in the criminal justice system, in particular the failure to conduct impartial investigations and to bring alleged perpetrators to trial, sustained a climate of impunity. Limited access to qualified legal counsel aggravated the situation. The Parliamentary Human Rights Office remained concerned at the length of pretrial detentions and violations of due process in individual cases. Since 2002, an independent legal aid office in the Gali district of Abkhazia provided free legal advice to the population.

A Human Rights Commission established by the nonrecognized government of South Ossetia continued to operate. The South Ossetian Human Rights Commission worked in close collaboration with the Commission for Human Rights in the Autonomous Republic of North Ossetia in the Russian Federation and the representative of the President of the Russian Federation for Human Rights.

In October, two Ossetian members of the Joint Peacekeeping Forces were shot by partisans.

NGOs reported a deterioration in the human rights situation in the autonomous region of Ajara under the region's President, Aslan Abashidze. In May, following public protests of Abashidze's attempt to manipulate parliamentary elections and tense negotiations with Tbilisi, Abashidze fled for Moscow in May, which led to the restoration of Ajara to central Government control and a decline in human rights abuses, particularly concerning the press and freedom of association.

Section 2

Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, there were some incidents of government obstruction. Journalists were able to publish wide-ranging and extremely critical views of officials and their conduct; however, criticism of the Government in the media decreased during the year due to increased self-censorship. A law on broadcasting was passed in December converting the State television channel, Channel 1, into a public television channel. The law allows the new channel state funding for one more year, as well as commercial funding. Competitors complained that their lack of analogous state funding during this period would put them at a disadvantage.

There were approximately 200 independent newspapers in circulation. After the November 2003 "Rose Revolution," the Government privatized the previously state-owned news agency Sakinfo. The press frequently criticized senior government officials; however, few editorially independent newspapers were commercially viable. Typically, newspapers were subsidized by and subject to the influence of patrons in politics and business. Several newspapers were reputable sources of information, although lack of financial resources limited their circulation.

Following privatizations during the year, there were seven independent television stations in Tbilisi, three with national coverage—Channel 1, Rustavi-2, and Imedi. An international NGO estimated that there were more than 45 regional television stations outside of Tbilisi, 17 of which offered daily news. While these stations ostensibly were independent, a lack of advertising revenue often forced them to depend on local government officials for support; however, some regions, such as Samtskhe-Javakheti and Kutaisi, had relatively independent media. After the resignation of Aslan Abashidze, former President of the autonomous region of Ajara, the region ceased jamming the national television stations. There were two independent newspapers in Ajara, and Ajara also received the national independent newspaper 24 hours.

While there were no physical attacks on media representatives during year, state tax authorities occasionally harassed independent newspapers and television stations. Journalists stated that they were vulnerable to pressure from authorities, as well as from business and societal elements. Media outlets complained that commercial firms refused to advertise on certain channels critical of the Government for fear of losing the Government's favor.

Compared to 2003, physical harassment of the media decreased, although self-censorship increased, likely due to a desire to please the new government. There were some reports of legal harassment of media outlets by the financial police.

Although most journalists had regular access to government officials and agencies, a few government officials denied journalists access to public briefings. For example, the Minister of Interior temporarily blocked the television station Kavkasia access to the Ministry and to his public briefings. The mayor of Poti prohibited television cameras from public briefings and effectively blocked interviews of local government officials. In December, the mayor of Poti was arrested on unrelated charges. The Government also used financial pressures to influence media outlets and sometimes sent financial tax investigators to investigate critical journals.

In February, on the eve of parliamentary discussions of constitutional amendments proposed by the President (see section 1.e.), three of the most popular nightly political talk shows were temporarily canceled, reportedly due to "reformatting." Commentators reported government officials exerted pressure on the channels to cancel programming.

Early in the year, Iberia TV ceased news operations following a high-profile raid on the station by the General Prosecutor's office, which raided all subsidiary media and nonmedia businesses owned by the parent company, Omega Group. The Prosecutor's office cited financial fraud as grounds for the raid. Omega Group's owner, then Member of Parliament Zaza Okuashvili, who allegedly had close ties to Aslan Abashidze, fled the country. Omega Group's other media operations, Media News Agency, the newspaper Akhali Epoka, Omega magazine, and a printing house went out of business.

During the March parliamentary elections, in Ajara, the regional government under Aslan Abashidze did not allow opposition candidates media access or television time. Opposition gatherings were also violently suppressed or attacked, and opposition offices were ransacked. On March 5, unidentified men in masks beat reporter Vakhtang Komakhidze at a border checkpoint and confiscated his tapes, camera and notes. Komakhidze was later hospitalized for several weeks (see Section 3).

On July 15, the Government passed a new law on defamation, which states comments made in Parliament, court cases, and during political debates can no longer be considered libel. The law also moves the burden of proof to the accuser, and places entire companies, rather than individual reporters, as defendants in a court case. In practice, the Government did not use libel laws to inhibit journalism during the year.

In July 2003, head of the Georgian Railway Akaki Chkhaidze won a libel suit against independent television station Rustavi-2 for information broadcast on a program linking him to bribery scandals. The station was ordered to pay \$480,000 (1 million GEL) in moral damages. The station appealed the decision to the Supreme Court and the fine was reduced to \$50,000 (104,166 GEL).

Stations desiring benefits and better working relations with authorities practiced increased self-censorship. In November, a dispute broke out between the Georgian Orthodox Church (GOC) Patriarchate and reformist seminary students and priests. Media coverage was initially intense. In October, in a press conference, President Saakashvili called on the media to be more responsible in their coverage of this dispute. Immediately, all reporting on this dispute disappeared. However, no direct government harassment was reported.

The Government did not restrict access to the Internet. The Government did not restrict academic freedom.

Media in the separatist regions of South Ossetia and Abkhazia remained tightly restricted by their respective de facto governments.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, both the Government and local authorities restricted this right in practice. The Government dispersed several peaceful demonstrations and arrested participants for disrupting the peace.

The law requires political parties and other organizations to give prior notice and obtain permission from local authorities to assemble on a public thoroughfare. Most permits for assemblies were granted without arbitrary restriction or discrimination;



however, according to the law, the Government has the right to disperse any assembly that is "a disruption of the public order." No mechanism is designated to determine what constitutes a disruption of the public order. As a result, in contrast with previous years, the police often used this imprecision to justify violently dispersing several peaceful protests.

On January 11, protestors blocked the Tbilisi-Kutaisi highway to protest the detention of Zaza Ambroladze (see section 1.d.). Police violently dispersed the protest and pursued demonstrators into the forest, kicking them and beating them with clubs before apprehending them. Seven demonstrators were sentenced to 3 months pretrial detention for disrupting the public order. At year's end, these activists remained in detention and no trials had begun.

On July 1, riot police violently broke up a peaceful protest in front of Tbilisi City Hall, beating the 40 to 50 earthquake victims who were on a hunger strike due to the lack of funding for house reconstructions.

On September 2, 500 riot police violently dispersed a peaceful protest in the Batumi central market protesting the removal of the market to a new location. Riot police beat and kicked several participants, including M.P. Koba Davitashvili, then loaded participants into vans; 11 participants were charged and placed in 3 month pretrial detention for disrupting the public order. All 11 remained in detention awaiting trial at year's end.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Authorities granted permits for registration of associations without arbitrary restriction or discrimination.

### c. Freedom of Religion

The Constitution provides for freedom of religion; however, in practice, local authorities sometimes restricted the rights of members of nontraditional religious minority groups. There were fewer reports of violence against minority religious groups this year, but several groups continued to report intimidation by local authorities.

The Constitution recognizes the special role of the GOC in the country's history but stipulates the separation of church and state. A constitutional agreement (Concordat) signed by the President and the Georgian Orthodox Patriarch gives the GOC legal status and states that, with the consent of the GOC, the Government can issue permits or licenses for the use of official symbols and terminology of the GOC, as well as for the production, import, and distribution of worship articles. The tax code grants tax exemptions only for the GOC. Although several churches signed formal documents with the Orthodox Patriarchate agreeing to the Concordat, they noted that a controversial article allowing GOC authority over construction, as well as restitution issues, was not in the original agreed-upon document.

Some nationalist politicians continued to use the issue of the supremacy of the GOC in their platforms and criticized some Protestant groups, particularly evangelical groups, as subversive. Jehovah's Witnesses in particular were the targets of vocal attacks from such politicians.

There are no laws regarding the registration of religious organizations. The GOC remained the only religion with legal status in the country, although some religions registered affiliated NGOs. This lack of legal status prevented religions from renting or registering property; many groups registered property under an individual or affiliated NGO, although this complicated ownership issues and exposed individuals to personal liability. The new Government has not addressed a previous draft law to allow for registration or proposed other changes. Unregistered religious groups are not officially permitted to rent office space, acquire construction rights, import literature, or represent the international church, although many religious groups accomplished these goals through their locally registered NGOs. Unregistered religious groups were also subject to an administrative fine.

In late 2003, the new Government allowed the registration of the Jehovah's Witnesses NGO The Watchtower Bible Society. Jehovah's Witness Groups reported that since then, unlike in previous years, there has been no violent persecution and they have had no difficulties in importing their literature.

While less harassment was reported during the year, minority religions continued to report intimidation from local government authorities and obstructions to constructing worship halls. The Catholic Church, True Orthodox Church, Baptists, Armenian Apostolic Church, and Protestant denominations had difficulty in building churches during the year.

The Roman Catholic Church and the Armenian Apostolic Church were unable to secure the return of churches closed or given to the GOC during the Soviet period. The Jewish community also experienced delays in the return of property confiscated during Soviet rule, including a former synagogue that a 2001 Supreme Court ruling instructed the Government to return.

The Ministry of Education requires all 4th grade students to take a "Religion and Culture" class, which covers the history of major religions. Many parents complained of teachers focusing solely on the Georgian Orthodox Church. The Church has a consultative role in all curriculum development.

Regular and reliable information regarding separatist-controlled regions, including South Ossetia, was difficult to obtain. An Abkhaz presidential decree bans Jehovah's Witnesses. A number of members of Jehovah's Witnesses were detained in the last few years; however, according to a representative of Jehovah's Witnesses, none were detained during the year.

Despite a general tolerance toward minority religious groups traditional to the country—including Catholics, Armenian Apostolic Christians, Jews, and Muslims—citizens remained very apprehensive towards Protestants and other nontraditional religions, which were seen as taking advantage of the populace's economic hardships by gaining membership by providing economic assistance to converts. Some members of the GOC and the public viewed non-Orthodox religious groups, particularly nontraditional groups or sects, as a threat to the national Church and the country's cultural values and argued that foreign Christian missionaries should confine their activities to non-Christian areas. Reputable and repeated public opinion polls indicated that a majority of citizens believed minority or nontraditional religious groups were detrimental to the state and that prohibition and outright violence against such groups would be acceptable to limit them.

Since 2000, the Government has prosecuted a criminal case against Father Basili Mkalavishvili, an Orthodox priest, whose followers engaged in a number of violent attacks on nontraditional religious minorities; however, the investigation has proceeded very slowly. In 2003, Father Mkalavishvili's case was suspended due to the Government's inability to keep order in the court, and Father Mkalavishvili went into hiding. In March, riot police stormed the church where Father Mkalavishvili was hiding out, arrested him and several of his supporters, and placed them in 3-month pretrial detention. Father Mkalavishvili's trial began on September 13 and was ongoing at year's end. Though his arrest was welcomed, many NGOs criticized the excessive force used to apprehend him.

Unlike in previous years, there were no violent attacks against nontraditional religious minorities by Basilists.

In June 2003, an ultra-Orthodox mob blocked the streets in front of a Pentecostal minister's house where services were being conducted and refused to let parishioners through. Church members were threatened with violence. Police were present but did not allow the parishioners to enter the street. At year's end, the Pentecostal group still had not been allowed access to this meeting house. The same Pentecostal group filed a suit in the Constitutional Court, complaining that they were denied legal registration as a religious group in contradiction with the Constitution, in which freedom of religion is guaranteed.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice. Freedom of movement was restricted in the separatist regions of Abkhazia and South Ossetia. The de facto governments of Abkhazia and South Ossetia did not allow their citizens to exit their respective regions and their internal movement was also often obstructed by police checkpoints. Many who did enter other parts of the country were denied reentry into the separatist regions. Ethnic Mingrelians living in the Gali region of Abkhazia were allowed movement throughout the rest of the country, but were not allowed in other parts of Abkhazia.

The law prohibits forced exile, and the Government did not employ it.

Following a 1999 presidential decree to repatriate and rehabilitate approximately 275,000 Meskhetian Turks relocated during the Soviet period, there has been no additional legislation to allow for repatriation of Meskhetian Turks. There was some official and public opposition to their repatriation. There were 643 Meskhetians living in the country, most of whom had citizenship. There were no repatriations during the year.

There were approximately 244,800 persons displaced at year's end, due to conflicts in the separatist regions of Abkhazia and South Ossetia, as well as hostilities in Chechnya. IDPs occupied hotels, hospitals, and other civil buildings in Tbilisi, or lived in private homes with relatives or friends throughout the country, particularly concentrated in Tbilisi, Zugdidi, and Gori.

The 1994 agreement between Russia, Georgia, Abkhazia, and the U.N. High Commissioner for Refugees (UNHCR) on repatriation in Abkhazia called for the free, safe, and dignified return of the approximately 230,000 IDPs and refugees driven from Abkhazia to Tbilisi and the western part of the country. The Abkhaz separatist regime prevented such repatriation and unilaterally abrogated the agreement. In 1999, the Abkhaz separatist regime unilaterally invited IDPs to return to Gali but did not adequately ensure their safety. The move did not significantly affect IDPs, who continued to travel back and forth to the area to tend their property. As many as 40,000 persons were estimated to be living in Gali on a more or less permanent basis, depending on the security situation.

The 1992 ethnic conflict in South Ossetia also created tens of thousands of IDPs and refugees. In 1997, the UNHCR began a program to return IDPs and refugees; however, both sides created obstacles that slowed the return. During the year, the South Ossetian separatists continued to obstruct the repatriation of ethnic Georgians to South Ossetia, although some families returned. Meanwhile, South Ossetia continued to press for the return of all Ossetian refugees to South Ossetia rather than to their original homes in other regions of the country. The Government recognized the right of Ossetian refugees to return to their homes but was unable to facilitate returns, due to its limited authority in South Ossetia. Government opposition to the return of illegally occupied homes has prevented the return of Ossetian refugees to Georgia proper. Approximately 2,700 persons were reported to be still dislocated from recent hostilities at year's end.

The Government inconsistently paid stipends to IDPs of approximately \$7 (14 GEL) per person per month and subsidized some monthly allocations of electricity. Subsidies were paid more frequently in Tbilisi than elsewhere in the country. IDPs also were

not afforded the right to vote in local elections (see Section 3).

During the year, approximately 1,000 IDPs housed in Tbilisi hotels were effectively "bought out" through the Government's privatization of the hotels. IDPs received \$7,000 (14,000 GEL) by the private investors to move elsewhere, which the Government maintained was adequate compensation. IDPs who accepted the buy out maintained their refugee status and government stipends, but lost their right to a place in a collective center (shelter). Absent a likely imminent return to their homes and a coordinated government IDP policy, observers interpreted this status as temporary assimilation.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. During the year, the Government processed approximately 4,000 refugee cases and granted refugee status to approximately 2,500.

The Ministry for Refugees and Accommodation was responsible for the screening and registration of refugees and new arrivals. Since the outbreak of hostilities in Chechnya, the Government has admitted an estimated 4,000 to 5,000 refugees from the conflict. Since then, many have returned or resettled. There are currently 2,500 registered refugees from Chechnya in the country. Chechen refugees settled in the Pankisi Valley in the eastern part of the country. International humanitarian organizations assistance to refugees in the Pankisi Valley was sporadic. During the year, approximately 2,500 Chechen refugees were living in the Pankisi Valley and 35 in Tbilisi. The majority of the Chechen refugees lived with the local Kist population; only 15 percent were sheltered in communal centers.

Chechen refugees remained vulnerable to abuse, including police harassment and threats of refoulement.

### Section 3

#### Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections, held on the basis of universal suffrage; however, poor organization by authorities, inaccurate voter registers, and lack of transparency in vote counting and tabulation and other flaws marred elections over the past three years. The irregularities in the November 2003 parliamentary elections led to peaceful mass protests, which resulted in President Shevardnadze's resignation in November 2003 and the assumption of the post of Interim President by Parliament Speaker Nino Burjanadze. The Supreme Court subsequently annulled the results of the November 2003 parliamentary contests. In January, Mikheil Saakashvili was elected President in the constitutionally mandated presidential election. Repeat parliamentary elections were held on March 7. President Saakashvili's National Movement Party won 133 of the 150 proportional seats. The only other party to win proportional seats was the New Rightists, headed by David Gamkrelidze, who won 17 seats.

On February 6, Parliament passed a series of constitutional amendments that strengthened the power of the executive relative to the Parliament and judiciary. According to international observers and civil society groups, both the amendments themselves and the manner in which they were adopted were problematic. Authorities ignored the constitutional provision for a 1-month debate period prior to adoption. NGOs criticized that the amendments increased the powers of the president at the expense of the Parliament and of judges. The amendments gave the president power to dismiss Parliament if it fails to approve the state budget, or the appointment of the prime minister or other ministers or in times of crisis. In addition, Parliament must accept or reject the budget in its entirety and does not have power to change separate line items in the budget.

The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) reported that the January presidential election demonstrated notable progress, although it also noted that time constraints limited administrative improvements to previous elections. ODIHR noted a continued lack of separation between state administration and political party structures and the tendency to misuse state administration resources. The voter register also continued to be incomplete and sometimes inaccurate. There was also notable political imbalance in the election administration at all levels and election commissions displayed a lack of impartiality. The National Movement and Democrat Parties (the allied parties of Saakashvili and Burjanadze, respectively) selected 10 out of 15 members of the Central Election Commission (CEC). Both parties provided regional election committees with material resources and campaign literature. While the OSCE reported the voting process itself as excellent in the majority of regions, there were significant irregularities in Kvemo Kartli, the southernmost region of the country, bordering Azerbaijan and Armenia, where vote count and tabulation violations and ballot stuffing were reported.

The worst irregularities were recorded in Ajara, where no pre-election registration was conducted and little to no campaigning occurred. Regional authorities maintained until late 2003 that elections would not take place on their territory, as they believed annulling the November 2003 election was illegitimate. In December 2003, unknown men physically assaulted a student leader active in a pro-election Public Committee. Journalists were prevented entry into Ajara, and authorities blocked transmission of television supporting the new Government. The election did take place; however, turnout was low. After the election, several civil activists and their relatives were detained.

International observers deemed the March parliamentary elections the most democratic since independence, with voter registration procedures further improved, including the addition of a consolidated computerized database; however, there continued to be a lack of political balance and independence in election commissions. During the election, international

observers noticed a number of irregularities, including campaign material on display in several polling stations, implausible voter turnout (over 100 percent) in certain regions, and an unusually high percentage of invalid votes. Significant voting irregularities again took place in Kvemo Kartli, including ballot stuffing and proxy voting.

Ajara remained the largest problem in the parliamentary elections. Then Ajara President Abashidze initially threatened to prevent the region from participating in Georgia's national parliamentary elections, voter registration information was inaccurate, and officials refused to cooperate with officials of the CEC. NGOs reported that violence against the opposition was higher than in previous elections. Opposition gatherings were violently suppressed or attacked, opposition offices were ransacked, and no television time was given to opposition parties. On March 5, unidentified men in masks beat reporter Vakhtang Komakhidze at a border checkpoint and confiscated his tapes, camera, and notes. Komakhidze was later hospitalized for several weeks. Such abuse reportedly prompted large-scale demonstrations, which were linked to Abashidze's ouster in May.

The separatist governments of Abkhazia and South Ossetia held periodic elections. International organizations, including the U.N. and the OSCE, as well as the Government did not recognize the Abkhaz presidential elections held in October. In 2001, the unrecognized separatist government held presidential elections in South Ossetia, resulting in the defeat of the incumbent and a peaceful transfer of power.

Local elections, held on June 2, were the first elections to be conducted under a new election code, which significantly tightened election rules to prevent fraud. International observers noted that although the election process was chaotic, with numerous errors in voter lists, the elections were not seriously hampered by fraud. Election results mirrored polling data running up to the election.

There were no government restrictions on political party formation beyond registration requirements; there were 20 registered political parties, a vast reduction from the previous year due in part to the vast popularity of President Saakashvili's National Movement Party.

Government corruption decreased significantly in the executive branch, but remains widespread in the judicial branch and in some law enforcement agencies. During the year, as opposed to previous years, most government officials received salaries in a timely manner, reducing corruption significantly. In February, Parliament passed an anticorruption bill that introduced major changes to the criminal and criminal procedure codes. The new legislation allowed the Prosecutor's Office greater flexibility in charging officials with criminal bribery, cancelled immunity for law enforcement agency officials, authorized in absentia proceedings against officials who fail to appear in court, and introduces the use of plea-bargaining, as well of undercover recordings made by journalists in trials.

In October, the Parliament adopted a new Code of Conduct, which established ethical norms to govern Parliamentarians in an effort to strengthen public accountability and provided a set of benchmarks for the public to measure their elected representatives' performance.

The Office of the Anticorruption Bureau was closed and its materials were transferred to a new office with the NSC, which investigated fraud, waste, and abuse.

The Government instigated several high profile arrests of former government officials on corruption charges, though NGOs claimed that arrest and interrogation methods compromised government dedication to the rule of law and due process (see Section 1.d.). Observers also criticized the Government for using harsh detention conditions as a form of pressure and a negotiating tool in these cases, often to extract payment.

The law provides for public access to government meetings and documents; however, few citizens or journalists employed it. The Government often failed to register freedom of information act requests, and although the law states that a public agency shall release public information immediately or no later than 10 days, the release of requested information could be delayed indefinitely and was sometimes ignored. A requesting party has no grounds for appeal.

There were 22 women in the 235-seat Parliament. Female Speaker of Parliament, Nino Burjanadze, served as Interim President from November 2003 until presidential elections in January, when she returned to Parliament as Speaker. The majority head of Parliament was also a woman, and women held important committee chairmanships and ministerial posts.

There were 8 members of minority groups (5 Armenians and 3 Azeris) in the 235-seat Parliament.

During the March parliamentary elections, the CEC provided ballots, manuals, and voter education materials in Azeri, Armenian, and Russian in areas with a concentration of national minorities. Training of election commissions was provided in minority languages as well; however, in some instances, training in Azeri-populated areas was conducted in Russian, and commission members reportedly had difficulties. Generally, national minorities were underrepresented on election commissions, even in areas where they were the majority population.

#### Section 4

Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. While some NGOs enjoyed free access and close cooperation with the Government, others complained of discrimination from government members.

Unlike in the previous year, no NGO members were arrested while observing elections.

An investigation of a 2002 attack on the Liberty Institute, the country's leading human rights organization, remained ongoing.

The law provides for the Ministry of Finance to access the funding records of international NGOs, alarming some in the NGO community; however, no NGOs complained of the Government using this provision in practice.

The UNHRC and the OSCE Mission's joint human rights office in Abkhazia operated sporadically due to security conditions but provided periodic findings, reports, and recommendations.

NGOs viewed the Office of the Public Defender, or Ombudsman, as the most objective of the Government's human rights bodies. The constitutionally mandated office monitored human rights conditions and investigated allegations of abuses. The position remained vacant for most of the year, until September. The Parliamentary Committee on Human Rights and Civil Integration, as well as the National Security Council's human rights advisor, also had the mandate to investigate claims of abuse. The Prosecutor General Office's human rights unit focused on curbing pretrial detention abuses and trafficking in persons. This position was abolished early in the year and then reestablished in August. The Government maintained a constructive relationship with several NGOs, although it restricted government access to some who had fallen out of the Government's favor.

The NGO Former Political Prisoners for Human Rights was denied access to detention facilities, a right it enjoyed under the previous government. In December, informational commercials on police torture prepared by Former Political Prisoners for Human Rights were pulled from all television channels. Channel representatives claim that the advertisements were pulled on the order of the Ministry of Security. The Ministry claimed it merely gave a recommendation and left the choice to the channels.

#### Section 5 Discrimination, Societal Abuse, and Trafficking in Persons

The Constitution recognizes that all citizens are to be considered equal before the law, regardless of race; color; language; sex; religion; political and other opinions; national, ethnic, and social belonging; origin; property and title; and place of residence; however, in practice, discrimination was a problem.

#### Women

Societal violence against women was a problem. There are no laws that specifically criminalize spousal abuse or violence against women, although the Criminal Code classifies rape, including spousal rape, and sexual coercion as crimes. In 2003, 795 crimes were registered against women, including 18 murders, 24 attempted murders, 52 rapes, and 41 attempted rapes; the remainder consisted of battery, assault and lesser crimes. Domestic violence was reportedly one of the leading causes of divorce but was rarely reported or punished because of social taboos and because it is not illegal according to the Criminal Procedural Code. Police did not always investigate reports of rape. A local NGO operated a shelter for abused women, and the Government operated a hotline for abused women but did not provide other services.

The kidnapping of women for marriage occurred, particularly in rural areas, although the practice continued to decline. Such kidnappings often were arranged elopements; however, at times abductions occurred against the will of the intended bride and sometimes involved rape. Police rarely took actions in these cases even though the Criminal Code criminalizes kidnapping.

Prostitution is not a criminal offense. Prostitution was widespread, especially in the capital of Tbilisi. Several NGOs claimed that prostitution increased during the year, due to continuing poor economic conditions. Trafficking in women for the purpose of sexual exploitation was a problem (see Section 5, Trafficking).

Sexual harassment and violence against women in the workplace was a problem. The law prohibits sexual harassment in the workplace; however, it was rarely investigated.

The Constitution provides for the equality of men and women; however, in practice, this was not enforced. Women's access to the labor market had improved; however, overall women remained primarily confined to low-paying and low-skilled positions, regardless of professional and academic qualifications. As a result, many women sought employment abroad. Salaries for women continued to lag behind those of men. According to the U.N. Development Program (UNDP), employers frequently withheld benefits connected to pregnancy and childbirth.

A number of NGOs promoted women's rights, including the women's group of the Georgian Young Lawyers' Association, the Women's Center, and Women for Democracy. Women's NGOs took an active role in the presidential and partial parliamentary elections during the year, engaging candidates on issues of concern.

## Children

The law provides for the protection of children's rights and welfare; however, funding shortages limited government services. Primary and basic education is compulsory from age 6 or 7 to age 14, and provided up to age 16. Education was officially free through high school, and most children attended school; however, in some places schools did not function or functioned sporadically because teachers were not paid and facilities were inadequate, particularly in winter when some schools could not afford to heat buildings. Many schools lacked libraries or blackboards. Many parents were unable to afford books and school supplies, and most parents were obliged to pay some form of tuition or teachers' salaries; in some cases, students were forced to drop out due to an inability or unwillingness to pay. Bribery was endemic in the education system to ensure acceptances, recommendations, and good grades. Attendance in 2002 was assumed to be about 90 percent.

Free health care was available only for children over age 3.

There were some reports of abuse of children, particularly street children, although there was no societal pattern of such abuse.

Incidents of sexual exploitation of children were reported, especially among girls. Child prostitution and pornography are punishable by imprisonment for up to 3 years. There were unconfirmed reports of trafficking in children (see Section 5, Trafficking), street children and children living in orphanages were allegedly particularly vulnerable. The Ministry of Internal Affairs sponsored a Center for the Rehabilitation of Minors, which regularly provided medical and psychological assistance to child and adolescent victims of prostitution before returning them to guardians.

Difficult economic conditions broke up some families and increased the number of street children. A local NGO estimated that there were approximately 1,500 street children in the country, with 1,200 concentrated in Tbilisi, due to the inability of orphanages and the Government to provide support. The private voluntary organization Child and Environment and the Ministry of Education each operated a shelter; however, the two shelters could accommodate only a small number of street children. No facilities existed outside of Tbilisi. The Government took little other action to assist street children.

There were no confirmed reports of police violence against street children this year.

Orphanages were unable to provide adequate food, clothing, education, and medical care; facilities lacked heat, water, and electricity. The staff was paid poorly, and wages were many months in arrears. Staff members often diverted money and supplies provided to the orphanages for personal use. The Government offered education grants and tutoring, including the option of enrolling in military school, to some children who left orphanages.

## Trafficking in Persons

The law prohibits trafficking in persons; however, the country was a source, transit point, and destination for trafficked persons.

The Criminal Code prohibits trafficking in persons, including minors, for the purposes of sexual, labor, and other forms of exploitation. The basic penalty is from 5 to 12 years' imprisonment, with maximum penalties of 20 years for aggravated circumstances. A memorandum of understanding between the Prosecutor General's Office and the Ministry of State Security led to greater cooperation, joint operations, and a number of arrests and charges under trafficking statutes. No convictions had been reached by year's end. In December, a new Plan of Action was adopted by Presidential Decree that established an ad hoc Interagency Commission against Trafficking under the auspices of the National Security Council of the country. The human rights unit of the NSC remained the government-wide antitrafficking point of contact.

The Government dissolved an MIA antitrafficking unit, which received foreign funding, and merged it with the antikidnapping unit, claiming it would give the unit more ability to coordinate casework and exchange information with investigators. In October, the MIA antitrafficking unit was reestablished with two branches, one in Tbilisi and one in Batumi. Following the December merger of the MIA and MSS, a Department of Special Operations on Trafficking and Illegal Migration with a staff of 50 was being established within the new Ministry of Police and Public Safety.

The country cooperated with other regional countries to uncover trafficking rings and assisted in the repatriation of trafficked persons discovered in transit through the country.

On June 22, Georgian police took 14 Uzbek women into custody who were being trafficked to Dubai. Through the assistance of the acting Ombudsman, the women were temporarily housed in an NGO facility, then an empty police shelter for children; 12 of the victims were repatriated and 2 remained in the shelter due to fraudulent documents, until they escaped 2 months later. All 14 were eventually repatriated. Ashot Hovhannesian, a citizen, was charged with organizing the human trafficking network and sentenced to 3 months pretrial detention. Tbilisi local police handled the case exclusively. Police investigators did not have victims sign the intelligence oath necessary for testimonies to be used in court. At year's end, the case was still pending.

Women were trafficked from the country to Turkey, Israel, United Arab Emirates, the United States, and Western Europe to work in bars, restaurants, or as domestic help. Many worked in the adult entertainment sector or as prostitutes. There also was evidence that Russian, Ukrainian, and Central Asian women were trafficked through the country to Turkey, sometimes using

fraudulently obtained passports. Georgian victims most likely come directly from the impoverished former industrial centers of Poti, Kutaisi, Rustavi, and Tbilisi. Local NGOs report that men were trafficked to Russia, Greece, Spain, Portugal, and other destinations to work in construction and manual labor. There were unconfirmed reports of trafficking in children, street children and children living in orphanages were allegedly particularly vulnerable.

Jobs abroad offered through tourism firms or employment agencies often lured victims. Many of the women working in the adult entertainment sector as prostitutes were informed, or led to believe, that they would be employed as waitresses in bars and restaurants or as domestic help.

There were no government programs to help victims; however, several NGOs provided assistance to victims. One internationally funded NGO operated a trafficking hotline that offered psychological support and assistance, though only a small percentage of the callers identified themselves as victims of trafficking. The Government conducted some antitrafficking training for police in the regions and maintained an OSCE-funded working group with the NGO community to draft the new Plan of Action and additional legislation including protections for victims' rights.

The Ministry of State Security instituted and adhered to a policy protecting the identity of victims and made numerous public statements that victims of trafficking would not be held liable for their crimes associated with having been trafficked, such as illegal border crossing, if they provided significant information about the crime of trafficking.

The Government did not conduct any public awareness campaigns during the year, although multiple NGOs continued informational brochures and local television public announcement campaigns.

#### Persons with Disabilities

Discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services was a problem. There is no law or official provision mandating access to buildings for persons with disabilities and very few, if any, public facilities or buildings were accessible. The law mandates that the Government ensure appropriate conditions for persons with disabilities to freely use the social infrastructure and to ensure proper protection and support and provide special discounts and favorable social policies for persons with disabilities, particularly veterans; however, in practice, a lack of funding precluded much assistance. Most persons with disabilities were supported by family members or by international humanitarian donations. Societal discrimination against persons with disabilities existed.

#### National/Racial/Ethnic Minorities

The Government generally respected the rights of ethnic minorities in nonconflict areas but limited self government.

The Constitution stipulates that Georgian is the state language. Ethnic Armenians, Azeris, Greeks, Abkhaz, Ossetians, and Russians usually communicated in their native languages or in Russian. Both Georgian and Russian were used for interethnic communication. School instruction in non-Georgian languages was permitted. The new Parliament did not take up a language law drafted under the previous Government that would make Georgian compulsory for government employees. The State Language Chamber organized free language courses for government employees in regions inhabited by ethnic minorities, conducted in coordination with and through funding from the OSCE. Armenians, on occasion, complained that they were being forced to learn Georgian.

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides for the right of citizens to form and join unions, and workers exercised this right in practice.

The principal union was the Georgian Trade Union Amalgamation (GTUA), which was the successor to the official union during the Soviet period. The GTUA consisted of 31 sectoral unions and claimed 500,000 members, although active, dues-paying membership was lower. During the year, prosecutors initiated a criminal investigation of the president of the GTUA that reportedly was related to efforts by the government to induce the GTUA to divest itself of substantial real estate and other assets unrelated to the essential functions of a labor federation, which the GTUA inherited from its Soviet-era predecessor. There were two additional unions: The Free Trade Union of Teachers of Georgia Solidarity (FTUTGS) and the Independent Trade Union of Metropolitan Employees.

The law prohibits discrimination by employers against union members, and employers may be prosecuted for antiunion discrimination and forced to reinstate employees and pay back wages; however, the GTUA and its national unions reported frequent cases of management warning staff not to organize trade unions. Some workers, including teachers, employees of various mining, winemaking, pipeline, and port facilities, and the Tbilisi municipal government reportedly complained of being intimidated or threatened by employers, including their public sector employers, for union organizing activity. Observers also claimed that employers failed to transfer compulsory union dues, deducted from wages, to union bank accounts. The Ministry of

Labor investigated some complaints but took no action against any employers.

b. The Right to Organize and Bargain Collectively

The law allows workers to organize and bargain collectively, and some workers exercised these rights; however, the practice of collective bargaining was not widespread.

The law provides for the right to strike with some restrictions, and workers exercised this right in practice.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

d. Prohibition of Child Labor and Minimum Age for

Employment

The Labor Code governs all labor issues, including child labor, and the worst forms of child labor are criminal offenses carrying steep penalties.

According to the law, the minimum age for employment of children is age 16; however, in exceptional cases, children may work with parental consent at ages 14 and 15. Children under age 18 may not engage in unhealthy or underground work, and children between ages 16 and 17 are subject to reduced working hours. The Ministry of Health, Social Service, and Labor was responsible for enforcing laws regulating child labor; however, the actual enforcement of these laws was questionable due to a general lack of resources. Child labor was not considered a serious problem.

e. Acceptable Conditions of Work

The national minimum wage for public employees was \$4.50 (9 GEL) a month, which did not provide a decent standard of living for a worker and family. There was no mandated minimum wage for private sector workers, although the lowest wage actually paid was \$10 (20 GEL), which also did not provide a decent standard of living. Average wages in private enterprises for 2003 was \$65 (126 GEL) monthly; in state enterprises, \$58 (113 GEL). In general, salaries and pensions were insufficient to meet basic needs for a worker and family. Unreported trade activities, assistance from family and friends, and the sale of homegrown agricultural products often supplemented salaries.

The old Soviet Labor Code, still in effect with some amendments, provides for a 41-hour workweek and for a weekly 24-hour rest period. The labor code permits higher wages for hazardous work and permits a worker to refuse duties that could endanger life without risking loss of employment; however, in practice, these protections were rarely, if ever, enforced.